

OGC Has Reviewed

OSVD

25 August 1948

Office of the General Counsel

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Travel Expense for [REDACTED]

1. This office's opinion has been requested in regard to the propriety of reimbursing an employee for his dependent's travel in the following situation:

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2. [REDACTED] was assigned to this organization in [REDACTED] in a military status from February, 1946, until June, 1947. At the latter date, he was mustered out of the Army in [REDACTED] and entered on our rolls in a civilian capacity. In computing time with this organization, the employee's army service was included. Employee was thus eligible for transfer or return to the United States in August, 1947. In December, 1947, he married Mrs. [REDACTED] who was then an alien. Continuance of the employee's work was approved, and, in fact, specifically desired for a new tour of duty. Employee agreed in writing to remain at his job in [REDACTED] for eighteen months after his wife joined him there. And, for the convenience of the Government, he agreed to undertake the extended tour without first returning to the United States. His wife had been denied admission to [REDACTED] however, because of her alien status, and she came to the United States in the spring of this year to obtain American citizenship. She took her oath on 1 June 1948 and then joined her husband in [REDACTED]. Her transportation to [REDACTED] was paid by this agency, and the question of whether such payment is authorized under present regulations has now been raised.

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2. [REDACTED] provides that travel payment to employees from Special Funds will conform to the requirements of P.L. 600, 79th Congress, 2nd Session, approved 2 August 1946, the regulations issued thereunder, Standardized Government Travel Regulations, and Bureau of the Budget Circular A-7. P.L. 600 provides that, in certain circumstances, dependent's transportation will be paid by the Government when the employee is a new appointee or when the employee is transferred from one station to another in the interest of the Government.

3. It is clear that transportation for an employee's dependents from the United States to his first post, from one post to another outside the United States, and for return to the United States, can be paid by the Government under the authority of P.L. 600 and E.O. 9778. Such travel cannot be for the convenience of the individual, however, and must be a natural concomitant to transfer of the employee on other than temporary duty. The right of the dependent to travel at the Government's expense depends on the

transfer of the employee on other than temporary duty. The right of the dependent to travel at the Government's expense depends on the transfer of the employee, and the wife's right to travel is not independent of the husband's. (C.G. 5-175). Such independent travel would be permissible only where Congress has specifically provided for it (C.G. 24-741), and there is no indication of such sanction here. The dependent's travel does not have to be simultaneous, of course, and can precede or follow that of an employee (C.G. 18-971) - always provided, of course, that there is travel by the employee.

4. When the employee is married while on duty overseas, he is entitled to reimbursement for his wife's transportation to the United States on his change of station to the United States. (C.G. 24-887).

5. It has been suggested that the agreement to extend Mr. [redacted] employment should be treated as a new appointment. In C.G. 5-175(177), the Comptroller General stated that:

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"Reimbursement for transportation of a wife as for travel to an initial post of duty can only be allowed when it is the officer's initial post of duty on an original appointment, or an assignment to a post after a change in class or grade such as would constitute a new appointment....."

A change in salary or grade may not necessarily be controlling, however. (C.G. 10-874).

6. There is no precedent for payment in the situation presented in this case. Since the employee never left his station, it cannot be designated a "transfer". Without travel by the employee, there is no independent right to reimbursement for his dependent's travel unless it can be considered a "new appointment", and such an interpretation of the extension in employment cannot be accepted in view of the facts. If the facts stated above are correct, the payment of [redacted] from this country were purely personal, and, unfortunately, amounted to a mere gratuity which was illegal regardless of what funds were used. Unless additional facts are produced which change the present picture, it is our opinion that there is no authority for payment of travel expenses under these circumstances. The file is accordingly returned to the certifying officer for appropriate action.

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General Counsel: [redacted]